

Being Sued

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It's not unusual to be sued. Thousands of people in the U.S. are named in lawsuits every day. The suits may result from a slip and fall on your sidewalk, a fender-bender car accident or just a misunderstanding about the payment of a debt. If you are sued, it's important to know what's involved and to understand your options.

How a Lawsuit Begins

When someone files a lawsuit, they must formally notify everyone being sued. This is usually done by delivering a document known as a summons. The lawsuit, or complaint, is generally included with the summons. In most jurisdictions a summons is served or delivered in person to the individual being sued, or to someone in their household, by a sheriff or a process server. Sometimes, especially in lawsuits involving smaller matters, a summons may be served through the mail, usually registered or certified mail that requires a signed receipt indicating it was delivered. The summons tells the person being sued what they must do to protect their rights to defend the suit. It usually includes the deadline for filing an answer to the complaint. The complaint tells the person being sued why the action was brought against him or her and what the demands are.

Having a Lawyer Provided for You

Sometimes a lawyer is provided to the person being sued at no personal expense. For example, if you are sued because you were in an auto accident, your insurance company will probably provide a lawyer to protect your interests. (You must contact your insurance company to find out if it will provide a lawyer and to give the company notice of a possible claim.) If you are sued as an officer or director of a charity or corporation, that organization may provide a lawyer for you. However, you must remember that you are responsible for any suit in which you are named. Therefore, you must immediately inform the agency or organization about the suit. You need to cooperate with the lawyer selected for you. But you should also consider the possibility that the lawyer provided for you may have a conflict of interest, meaning that he or she is responsible to the organization and the organization's interests may be different from yours. If you believe there is a conflict of interests, you should consult a lawyer that you select personally.

Other Options

Many lawsuits result from misunderstandings and can be resolved through alternatives to litigation in court. You may be able to talk to the person suing you and perhaps negotiate an agreement. Or you may be able to resolve the matter through the use of mediation, using the services of a skilled, neutral mediator. Many communities have neighborhood dispute resolution

centers providing these services free or at low cost. You may want to consult a lawyer just to help you determine whether options such as these-known as alternative dispute resolution-may be suitable in your case. Remember, though, that if you seek an alternative to the lawsuit, you still are being sued and you must protect your interests by filing your response and appearing in court. This is particularly important if your negotiations outside of court are unsuccessful.

Deciding Whether to Hire a Lawyer

If a lawyer is not otherwise provided for you and alternative dispute resolution is not an option, you must decide whether to hire a lawyer or to represent yourself. When deciding whether to hire a lawyer, it is generally best to look at the economics of the situation. How much are you being sued for, what is the likelihood you will win or lose in court, and how much will the lawyer cost?

Lawyers charge clients in various ways. Most charge on an hourly basis. Others charge a flat fee, although this is generally done only for the most routine cases. In either instance, most lawyers will ask for a retainer. A retainer is the amount you pay a lawyer to begin work on your case. In some cases a lawyer will proceed on a contingency fee, meaning the lawyer will receive a percentage of the award or settlement obtained on your behalf. This is rare when representing someone being sued, but could be used if you have a counterclaim, or lawsuit, against the person suing you. Regardless of the method of payment, you should always have a written fee agreement with a lawyer. When you try to decide about hiring a lawyer, keep in mind that fees vary from one lawyer to another, as does the quality of the services they provide. You may want to speak to several lawyers before retaining one to represent you.

You also will have to pay a filing fee, which is the court's cost for you to file your response to the lawsuit, and there may be other costs in addition to your lawyer's fees.

You may decide to defend yourself in a lawsuit instead of retaining a lawyer, especially if it is a matter for small claims court. A small claims division of the court hears only those cases where the money claimed is below a certain level, usually no more than \$1,500 to \$5,000. In small claims court, procedures are generally less formal and the judge sometimes helps the parties resolve the matter. However, in some small claims courts, parties may have a lawyer and demand a formal trial. Keep in mind that if you want to represent yourself, you still can seek the advice of a lawyer to coach you.

Finding a Lawyer

If you decide you will benefit by hiring a lawyer, there are a number of ways to do so. Most people find a lawyer through a personal referral from friends, family members or colleagues at work. If you seek a personal referral, remember that most lawyers focus their practices on a few areas of the law. Just because a lawyer did a good job for a friend in one matter doesn't mean he or she will be able to handle something entirely different for you just as competently.

If you cannot find a lawyer through a personal referral, try a local bar association referral service.

Some lawyer referral services have panels of lawyers who concentrate in certain fields of practice. You'll usually find bar association lawyer referral programs listed in the Yellow Pages under "lawyer referral."

If you are a member of a group or prepaid legal plan through your job or other organization, you can contact this service for a referral. If you have no money for a lawyer, you may qualify for legal assistance. For more information about this, look in your telephone directory for your local Legal Aid Society or contact a caseworker or social service agency for a referral.

The Stages of a Lawsuit

The steps involved in a lawsuit are different from one court system to another. Therefore, when you receive a summons and complaint, it is important to read them carefully. Usually, when a case is filed and you are served with a summons, a clock starts running. You have a limited time to respond to the lawsuit by filing a document known as an appearance and, in most cases, filing an answer to the complaint. If you fail to take these steps, you may lose your right to dispute the lawsuit and defend yourself.

After you have filed your appearance and answer, a date may be set for either a trial or a report to the court on the status of the case. In the meantime, the parties have the right to conduct discovery. Discovery is a process for each side to find out more about the issues in dispute. It may require people to answer questions under oath in a deposition or through interrogatories. A deposition is an oral examination, while interrogatories are written answers to questions.

In most courts, the judge will try to settle the case after discovery is completed and before the trial. The great majority of cases do settle without going to trial. When a civil case goes to trial, it may be heard and decided by a judge or a jury. A jury will decide the case if any of the parties asks for one. Usually there is an additional filing fee to demand a jury. If the case is decided against the person being sued, the judge or jury will also decide how much the damages are.

After a settlement or trial, a court order is written and signed by the judge. The order sets out the obligations resulting from the lawsuit. If there is an order for damages and money is owed, the order can be enforced by various collection methods such as wage assignment, where money is taken out of a paycheck, or the sale of assets such as a car or house.

If you lose a lawsuit, you might be able to bring an appeal to a higher court. However, appeals can be brought for only a limited number of reasons and are costly and time consuming.

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**This information provided by:
The Joint Service Pentagon Legal Assistance Office
2201 Army Pentagon Room 2C437
Washington DC 20310-2201**

Telephone: (703) 693-0108